

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK

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DANIEL J. SULLIVAN,

Plaintiff,

vs.

**NOTICE OF REMOVAL**

Civ. No.:

DICK'S SPORTING GOODS, INC.,

Defendant.

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Pursuant to 28 U.S.C. §§ 1441(a) and 1446, defendant Dick's Sporting Goods, Inc. ("defendant"), through its legal counsel, hereby respectfully files and serves this Notice of Removal to remove this action from the Monroe County, New York, Supreme Court, based upon the following:

1. On or about May 7, 2012, plaintiff Daniel J. Sullivan ("plaintiff") filed a Complaint in the Monroe County, New York, Supreme Court. The matter is captioned *Sullivan v. Dick's Sporting Goods, Inc.*, Index No. 12/6142 (the "State Court Action").

2. Pursuant to Rule 81(a)(3)(A) of the Local Rules of Civil Procedure, attached as **Exhibit "A"** is an Index of all documents filed in the State Court Action.

3. A copy of plaintiff's Summons and Complaint filed in the State Court Action is attached as **Exhibit "B"**.

4. Upon information and belief, plaintiff is a resident of the State of New York.

5. According to plaintiff's Complaint, plaintiff was allegedly involved in an incident that took place on February 23, 2010 wherein plaintiff claims that he was using a Fitness Gear

25-lbs resistance tube that was designed, engineered, built, developed, tested, marketed and sold by defendant at which time he suffered an eye injury.

6. A copy of defendant's Answer is attached as **Exhibit "C."**

7. Attached as **Exhibit "D"** is a Demand for Specific Relief Requested pursuant to CPLR §3017(c) defendant served upon plaintiff on or about July 20, 2012.

8. Less than 30 days have elapsed since the receipt of plaintiff's response to defendant's Demand for Specific Relief on August 21, 2012. A copy of plaintiff's response to defendant's various demands which states a claim for damages in the amount of \$1,000,000.00 is attached as **Exhibit "E"** (Ex. E, ¶20).

9. Defendant is incorporated in the State of Delaware, with its corporate headquarters in Coraopolis, Pennsylvania.

10. The amount in controversy, as stated in plaintiff's response to defendant's various demands, exceeds the jurisdiction of all lower Courts and is greater than \$75,000.00 (Exhibit "E").

11. Defendant is entitled to remove this action pursuant to 28 U.S.C. Section 1446(a) and 1446(b), since the District Court has original jurisdiction over the action pursuant to 28 U.S.C. Section 1332(a), based upon the parties' diversity of citizenship.

12. Pursuant to 28 U.S.C. Section 1332(c)(1), a corporation shall be deemed to be a citizen of any state by which it has been incorporated and of the state where it has its principle place of business.

**WHEREFORE**, defendant Dick's Sporting Goods, Inc. hereby removes this action from the State of New York, Supreme Court, County of Monroe, to the United States District Court for the Western District of New York.

Dated: Buffalo, New York  
September 11, 2012

BURDEN, GULISANO & HICKEY, LLC

A handwritten signature in black ink, appearing to read 'J. Hickey', is written over a horizontal line.

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